

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ARUNESWARAN VENKATESWARAN,

Plaintiff,

v.

DRAFTKINGS INC.,

Defendant.

Civil Action No. 1:24-cv-12929-MJJ

DEFENDANT’S MOTION TO DISMISS

Pursuant to Fed. R. Civ. P. 12(b)(6), Defendant DraftKings, Inc. (“DraftKings”) hereby moves that the above-captioned matter be dismissed because the Operative complaint in this matter (“Complaint”) fails to state any claim upon which relief can be granted.

As explained in more depth in Defendant’s Memorandum of Law, DraftKings terminated the employment of Plaintiff Aruneswaran Venkateswaran (“Plaintiff”) on August 8, 2023. Plaintiff, who alleges that he asked to take 16 weeks of parental leave before his termination, claims his termination constituted a breach of the implied covenant of good faith and fair dealing and a breach of contract, as well as retaliation and/or interference with alleged statutory rights under the Massachusetts Paid Family and Medical Leave law (“PFML”); Massachusetts Earned Sick Time (“EST”) law; and the Federal Family and Medical Leave Act (“FMLA”).

However, each of Plaintiff’s claims is deficient. Plaintiff has not stated a claim for breach of contract because he has failed to plead the existence of a contract between Plaintiff and DraftKings, or a term of a contract that he claims was breached by the termination of his employment. His claim for breach of the covenant of good faith and fair dealing fails for similar reasons, and his attempt to overcome the presumption of at-will employment fails because Plaintiff has not alleged he is owed

unpaid compensation related to work Plaintiff had already performed for DraftKings prior to his termination.

Plaintiff's statutory claims suffer similar deficiencies. Plaintiff, a Wisconsin resident who worked remotely, has not adequately pleaded that his request for parental leave constituted protected activity under the FMLA, PFML, or the EST law.

Accordingly, the Complaint should be dismissed in its entirety pursuant to Fed. R. Civ. P. 12(b)(6).

Respectfully submitted,

DRAFTKINGS INC.,

/s/ Daniel R. Fishman
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Dated: January 9, 2025

REQUEST FOR ORAL ARGUEMENT

Pursuant to Local Rule 7.1(d), DraftKings requests oral argument on this Motion.

CERTIFICATE PURSUANT TO LOCAL RULE 7.1(a)(2)

Pursuant to Local Rule 7.1(a)(2), the undersigned hereby certifies that he spoke with Plaintiff's counsel on January 8, 2025 regarding the relief sought within this motion. The parties attempted in good faith to resolve or narrow the issues and that attempt was successful.

/s/Daniel R. Fishman

CERTIFICATE OF SERVICE

I hereby certify that on January 9, 2025, that a true and correct copy of this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as nonregistered participants.

/s/Daniel R. Fishman